

FILED  
Clerk  
District Court

APR 10 2006

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN MARIANA ISLANDS

ALAN STUART MARKOFF, D.D.S.dba  
TOOTHWORKS and OPEN CHOICE,

Plaintiff,

vs.

TODD KEITH JOHNSON, D.D.S.

Defendant.

CIVIL ACTION NO. CV-05-0035

**JOINT STATEMENT OF THE  
PARTIES PURSUANT TO  
F.R.C.P. 26(f) and LR 16.2CJ.e.2**

**Case Management Conference  
Date: April 13, 2006  
Time: 9:30 a.m.**

The respective counsel for Plaintiff Alan Stuart Markoff and Defendant Todd Keith Johnson have conferred pursuant to F.R.C.P.26(f) and LR 16.2CJ.e.2. The Plaintiff was represented by Mark K. Williams, Esq. and Defendant was represented by David G. Banes, Esq.

The parties make the following joint statement pursuant to their obligation under F.R.C.P. 26(f) to report on their Rule 26(f) meeting, and also pursuant to their obligation under LR 16.2CJ.e.2 to file a Case Management Conference Statement:

- 1. Disclosures:** Plaintiff has already filed his Pre-Discovery Disclosure Statement on March 31, 2006. Defendant has yet to submit his initial disclosures pursuant to F.R.C.P. 26.

2. **Timing and sequence of discovery:** Defendant proposes the following discovery schedule:

- A. Trial to commence 12 months from the Case Management Conference;
- B. Phased discovery with “fact” discovery first, and then “expert” discovery second;
- C. 6 months for fact discovery;
- D. a deadline of 2 weeks after the close of fact discovery to file any fact discovery motions, and to designate experts and produce experts’ reports pursuant to F.R.C.P. 26(a)(2);
- E. from the fact discovery motions filing deadline, 3 months for expert discovery; and
- F. a deadline of 2 weeks after the close of expert discovery to file any expert discovery motions (this brings the case to a total of 11 months from the April 13, 2006 Case Management Conference).

Plaintiff proposes the following discovery schedule:

- A. Trial to commence 6 months from the Case Management Conference;
- B. Discovery shall be completed in 3 months - to include both fact and expert discovery;
- C. a deadline of 2 weeks after the close of discovery to file any discovery and dispositive motions; (this brings the case to a total of 4 1/2 months from the April 13, 2006 Case Management Conference with 1 ½ months allowance for other pre-trial schedules).

3. **ORDERS THAT SHOULD BE ENTERED BY THE COURT PURSUANT TO F.R.C.P. 26(c) or 16(b) or (c):** Regarding F.R.C.P. 26(c), the parties do not anticipate at this time any need for protective orders. Regarding F.R.C.P. 16(c), the parties agree that the Local Rules’ pre-trial procedures should be followed. Regarding F.R.C.P. 16(b), LR 16.2CJ.e.2 and the topics set for discussion at the Case Management

1 Conference pursuant to the Court's March 22, 2006 Order re Case Management  
2 Conference, the parties state as follows:

- 3 A. *Service of process on parties not yet served.* Not applicable.
- 4 B. *Jurisdiction and venue.* Defendant submits that this case should be  
5 stayed as there is an identical case in Texas filed by Defendant.  
6 Plaintiff submits that the CNMI is the only appropriate venue for  
7 this case and has filed a Motion in the Texas Court to stay the Texas  
8 proceeding.
- 9 C. *Track assignment.* Defendant asserts that this case is generally  
10 appropriate for the Standard Track, subject to the discovery  
11 schedule proposed above. Plaintiff asserts that this case is  
12 appropriate for the expedited track subject to his proposed discovery  
13 schedule above.
- 14 D. *Anticipated motions.* As noted above, there is already a pending  
15 Motion to Stay. Both Plaintiff and Defendant may file dispositive  
16 motions.
- 17 E. *Anticipated or remaining discovery, including limitations on*  
18 *discovery.* Please refer to the proposed discovery schedule set forth  
19 above. All parties anticipate the use of experts.
- 20 F. *Further proceedings and scheduling of dates.* The parties have no  
21 comments here other than what is discussed above or below in this  
22 joint statement.
- 23 G. *Appropriateness of special procedures.* Not applicable.
- 24 H. *Modification of standard pre-trial procedures.* The parties agree  
25 that the standard pre-trial procedures under the Local Rules are  
26 appropriate in this case.
- 27 I. *Settlement prospects.* The parties intend to discuss settlement.


J. *Any other matter conducive to the just, efficient resolution of the case.* Not applicable.

K. *Setting of date for:*


1. Joinder of all parties. Defendant proposes 120 days.  
Plaintiff proposes 30 days.
2. Motions to amend. Defendant proposes 120 days.  
Plaintiff proposes 30 days.
3. Discovery cut-off. Defendant proposes 6 months for fact discovery, then 2 weeks for motions regarding fact discovery, then 3 months for expert discovery and then 2 weeks for motions regarding expert discovery, as discussed above. Plaintiff proposes that discovery shall be completed in 3 months - to include both fact and expert discovery.
4. Status conferences. As requested by the parties or set by the Court.
5. Discovery motions hearing date. Pursuant to the Local Rules and the fact and expert discovery motions cut-off dates as proposed above.
6. Dispositive motions filing cut-off. Defendant proposes 60 days before trial. Plaintiff proposes 2 weeks after discovery cut-off.
7. Dispositive motions hearing date. Pursuant to the Local Rules and the dispositive motions filing cut-off.
8. Settlement conference. As requested by the parties or set by the Court.

9. Joint pre-trial order. 14 days before trial.
10. Final pre-trial conference. 7 days before the trial.
11. Trial. Defendant proposes 12 months from the Case Management Conference, and estimated to last approximately 4-5 days. Plaintiff proposes 6 months from the Case Management Conference, to last approximately 3 - 5 days.

AGREED THAT THIS STATEMENT ACCURATELY REFLECTS THE  
POSITION OF THE PARTIES.

  
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DAVID G. BANES, Esq.  
Counsel for the Defendant  
Todd Keith Johnson

Date: 4-7-06

  
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MARK K. WILLIAMS, Esq.  
Counsel for the Plaintiff  
Alan Stuart Markoff

Date: 4.7.06